

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

HILL HOLLIDAY CONNORS
COSMOPULOS, INC., d/b/a ERWIN-
PENLAND,

Plaintiff,

v.

JEFFREY GREENFIELD and
1st APPROACH, LLC,

Defendants, and Third-Party Plaintiffs,

v.

CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS, and JOSEPH A. ERWIN,

Third-Party Defendants.

Civil Action No. 6:08-3980-GRA

**CONSENTED-TO MOTION TO
AMEND SCHEDULING ORDER**

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Pursuant to Fed. R. Civ. P. 6 and Local Civil Rule 6.01, Plaintiff Hill Holliday Connors Cosmopulos, Inc. d/b/a Erwin-Penland (“Erwin-Penland”), with the consent of all other parties to this action, moves to amend the Scheduling Order entered by this Court on May 27, 2009. The parties jointly state that they require additional time to complete fact and expert discovery, and the parties do not believe that any party will be prejudiced by a brief, three-month extension of the dates listed on this Court’s May 27, 2009 Scheduling Order. As grounds for this Motion, the parties state as follows:

1. On September 12, 2008, Erwin-Penland filed a Complaint against Defendants 1st Approach, LLC and Jeffrey Greenfield (collectively, “Defendants”), in the Court of Common

Pleas, Greenville County, South Carolina, seeking a declaration regarding the rights of Erwin-Penland and Defendants in connection with a project entitled “How Sweet the Sound.”

2. On December 10, 2008, Defendants removed the action, pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 1446, to the United States District Court for the District of South Carolina, Greenville Division.

3. On December 14, 2008, Defendants answered the Complaint and filed counterclaims against Erwin-Penland (the “Counterclaim”).

4. On December 15, 2008, the Court entered its Conference and Scheduling Order pursuant to Fed. R. Civ. P. 26 (the “Scheduling Order”).

5. After entry of the Scheduling Order, the parties consulted pursuant to Fed. R. Civ. P. 26(f) and reported to the Court that the schedule set forth in the Scheduling Order required modification as set forth in a proposed Amended Scheduling Order.

6. On February 3, 2009, the Court entered the Amended Scheduling Order, requiring the parties to complete fact discovery by July 28, 2009 and setting a trial date of November 6, 2009.

7. On February 26, 2009, Defendants sought leave to amend their Counterclaim and file a third party-complaint against Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) and Joseph A. Erwin (“Mr. Erwin”).

8. On March 31, 2009, the Court granted Defendants leave to file the Amended Counterclaim and Third Party Complaint, which Defendants filed on April 2, 2009.

9. On May 6, 2009, the parties, now with the addition of Verizon Wireless and Mr. Erwin, consulted again and concluded that the schedule set forth in the Amended Scheduling Order required modification as set forth in a proposed Second Amended Scheduling Order.

10. On May 27, 2009, the Court entered a Second Amended Scheduling Order, requiring the parties to complete fact discovery by December 31, 2009 and setting a trial date of May 10, 2010.

11. On August 7, 2009, this Court entered a Consent Protective Order to govern all discovery in this case.

12. On July 28, 2009, Erwin-Penland, Verizon Wireless, and Mr. Erwin filed a Motion to Clarify Schedule and for Phased Discovery (“Motion for Phased Discovery”). On August 17, 2009, Defendants filed an Opposition to this Motion for Phased Discovery. On August 27, 2009, Erwin-Penland, Verizon Wireless, and Mr. Erwin filed a Reply to Defendants’ Opposition. A ruling on this Motion for Phased Discovery is pending.

13. The parties have already exchanged several sets of written discovery and the parties will be producing additional documents in the coming weeks. However, the parties have not yet taken any depositions, and the parties do not believe that they will be able to complete fact and expert discovery by the deadlines set forth in the Second Amended Scheduling Order entered on May 27, 2009. The parties believe that the interests of justice require a brief extension to complete discovery and prepare for trial.

14. The parties, after deliberation and consultation, jointly believe that the schedule set forth in the Second Amended Scheduling Order requires a slight modification as set forth in the proposed Third Amended Scheduling Order attached herein.

15. The parties do not believe that any party will be prejudiced by this brief extension. The majority of the deadlines in the Second Amended Scheduling Order have yet to expire and the parties hereby consent to the dates set forth in the proposed Third Amended Scheduling Order.

WHEREFORE, the parties respectfully request that the Court extend the deadlines in this matter as set forth in the attached Third Amended Scheduling Order. As required by Local Civil Rule 6.01, a proposed amended scheduling order in the form used by the Court is attached to this Motion.

Respectfully submitted,

HILL HOLLIDAY CONNORS
COSMOPULOS, INC., D/B/A ERWIN-
PENLAND

By its attorneys,



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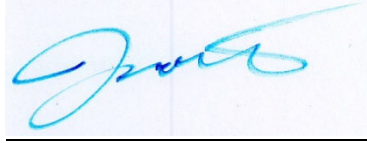
By its attorneys,

A handwritten signature in black ink, appearing to read 'R. A. Muckenfuss', written over a horizontal line.

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1st APPROACH, LLC, and JEFFREY
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By their attorney,

A handwritten signature in blue ink, appearing to read "P. North", is written over a horizontal line.

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